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Forty-ninth session
Agenda item 10 (a)

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR: TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Letter dated 23 February 1993 from the Permanent Representative of Greece to the United Nations Office at Geneva addressed to the Assistant Secretary-General for Human Rights

I have the honour to enclose herewith the photocopy of a text containing remarks on paragraphs 205 to 235 of the report of the Special Rapporteur of the Commission on Human Rights on the question of Torture, submitted to the forty-ninth session of the Commission on Human Rights under agenda item 10 (a) (E/CN.4/1993/26).

I should be grateful if this text could be circulated as a document of the forty-ninth session of the Commission on Human Rights under agenda item 10 (a).

(Signed): Emmanuel I. Ghikas

Remarks concerning paragraphs 205 to 237 of the report of the Special Rapporteur of the Commission on Human Rights on the question of Torture

This Permanent Mission would wish to thank the Special Rapporteur for having incorporated important excerpts from the information and comments by the Greek Government on alleged torture or ill-treatment cases in Greece, forwarded with letter sub No. 6171.134/10/AS 2899, dated 30 October 1992.

However, among the inevitable omissions due to the shortage of space, there are some which may lead to misunderstandings and false impression, as shown by the following indicative examples:

(1) The omission of some "fundamental provisions in force" according to which: "in the framework of their mission, the Officers and Non-Commissioned Officers exercise preliminary investigation duties, always under the direction and supervision of the Public Prosecutor of the Magistrates' Court. They undertake a preliminary investigation, either upon a written order of the Public Prosecutor, or ex-officio, when it concerns a felony or misdemeanour caught in the act, or when there is a threat or direct danger due to an adjournment. In this case, the competent Public Prosecutor is informed immediately. The file of proceedings made out during the preliminary investigation is submitted to the competent Public Prosecutor's office which undertakes, from that moment on, the responsibility for further investigation of the case and the committal or otherwise of those responsible to trial. ... The rules governing the arrest and the detention of persons are clearly defined in the Penal Procedure and are analysed in the Regulations of the Greek Police. Any action, which may harm the honour and reputation, or offend the dignity of the person arrested, is prohibited" (page 4 of the reply).

Furthermore, as highlighted in page 6 of the reply, "It should be pointed out that when under detention in the services of the Greek Police, any person is ensured the absolute right to communicate freely with his/her lawyer. Members of the family or friends of the person under detention are also free to visit him/her daily. The opportunity given for medical examination ensures the protection of the health of the person in custody. The person in custody is also given the opportunity, if he/she wishes, to go out of the detention room, for recreation purposes, to read newspapers and other publications and to receive bed covers (sheets, blankets) other than the ones offered by the Service" (page 6 of the reply).

(2) Indicative omission, related to specific cases of alleged ill-treatment or torture, namely:

The Sotirios KALOGRIAS case where no mention is made of the findings of the administrative examination: "(a) Kalogrias' accusations concerning his maltreatment at the Security Division of Attica are unfounded. (b) The conduct of the policemen who tracked down Kalogrias in the area of Exarchia and the conduct of the policemen ... was lawful and proper ... (c) No reprehensible conduct of the two policemen who took him to the Security Division of Attica in the patrol car, was established" (page 16 of the reply).

The Pantelis TSOUMBRIS case where no reference is made to the fact that Tsoumbris unexpectedly attacked, kicked and hit the policemen until they fell on the ground, causing them physical injuries (page 22 of the reply).

The Suleyman Akyar case:

In the reply, it is not stated that "Akyar's death was a result of a physical injury caused by the blows he received from the police who were defending themselves". What is actually mentioned is that "it is a fact that Akyar's death bears upon the physical injury caused by the blows he received from the police who were defending themselves ..." (pages 34-35).

The Dimitris PAPATHEODOROU case where it is not mentioned that Papatheodorou was caught while performing lewd acts with three young Iraqis inside a car in front of a coffee shop, thus offending the decency of the passers-by (page 48 of the reply).

Furthermore, mention is also omitted of the fact that it is Papatheodorou himself who tried to take his clothes off, during his detention at the Police Station, but was prevented by the policemen and that the latter did not proceed with a body-search ... (page 48 of the reply).

The Stella EVGENIKOU case:

In the report, there is no reference to the fact that according to the file of proceedings: (a) Stella Evgenikou was arrested ... because of her involvement in violent acts against the police, (b) Evgenikou was injured during her arrest and while violent acts, in which she participated, were taking place against the police. She was not injured during her transfer or while in custody in the Security Headquarters of Attica (page 53 of the reply).

The Pavlos NATHANAEL and Kostas DIAVOLITSIS cases:

No mention is made of the conclusion of the investigation conducted by the Flying Squad Division of Attica based on the reports of the police officers, the file of proceedings drawn against Nathanael and Diavolitsis and on the medical certificates that "the injury of Nathanael was caused by his fall while he was trying to escape with Diavolitsis together, with whom he was handcuffed and being chased by constables Poulianitis and Sakellarakis" (page 61 of the reply).

The case of persons sticking up posters, where no mention is made of the part of the commentary of the reply according to which "The allegations for ill-treatment against the bill-posters while in custody by the Police are completely unfounded. If these allegations were true, it is certain that the bill-posters themselves would have reported it to their lawyers, since their communication was unhindered and would have lodged immediately a complaint against the police officers" (page 67 of the reply).

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COMMISSION ON HUMAN RIGHTS
Forty-ninth session
Agenda items 11, 12 and 27

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

SITUATION OF HUMAN RIGHTS IN THE TERRITORY OF THE FORMER YUGOSLAVIA

Letter dated 10 March 1993 from the Permanent Representative of the Federal Republic of Yugoslavia to the United Nations Office at Geneva addressed to the Assistant Secretary-General for Human Rights

I have the honour to forward herein the document entitled "Some Preliminary Comments on The Report by T. Mazowiecki, United Nations Special Rapporteur for Human Rights in Yugoslavia" prepared by the Government of the Federal Republic of Yugoslavia.

I would kindly ask you to transmit the enclosed document to Mr. T. Mazowiecki, Special Rapporteur of the United Nations Commission on Human Rights, and to have your office circulate the document as an official document of the current forty-ninth session of the United Nations Commission on Human Rights, under agenda items 11, 12 and 27.

(Signed): Dr. Vladimir Pavicevic
Ambassador
Chargé d'affaires a.i.

Some preliminary comments on the report by T. Mazowiecki, United Nations Special Rapporteur for Human Rights in Yugoslavia

This Report of the Special Rapporteur, like the previous ones, contains a large number of untrue, unsubstantiated and ill-intentioned allegations and assessments concerning the human rights situation in the Federal Republic of Yugoslavia, particularly the Republic of Serbia. A considerable number of these allegations were already brought up by various international commissions and institutions. This primarily applies to the early elections in the Federal Republic of Yugoslavia of 20 December 1992, the situation in the mass media (particularly in the Republic of Serbia), instances of alleged brutality against the members of national minorities (Albanians in particular) by the police force, etc.

The Yugoslav side responded many times to all these allegations with argumentation which reflects the actual situation in the field of human rights protection in the Federal Republic of Yugoslavia. Its latest reaction was prompted by the extremely unobjective report of the United States State Department on this matter.

Therefore, we would now confine ourselves to a general review of Mr. Mazowiecki's report, commenting only (on the basis of the presently available information) on some specific allegations contained in it.

Extremely malicious and untrue is the allegation contained in the report that the Federal Republic of Yugoslavia and the Republic of Serbia are linked with "the Serbian nationalists" responsible for the violation of human rights in Croatia and Bosnia and Herzegovina, and the conclusion that the Federal Government cannot be freed of the responsibility for ethnic cleansing in these areas.

The Federal Republic of Yugoslavia strongly condemns the practice of ethnic cleansing, regardless of the side committing it. Moreover, the Federal Republic of Yugoslavia is in no way involved in the war in Bosnia and Herzegovina (nor in the conflicts in United Nations Protected Areas). There is no Yugoslav soldier in these territories, no military or logistic support is being sent there and the borders of the Federal Republic of Yugoslavia are being controlled in order to prevent illicit traffick in arms. Moreover, both the Federal Republic of Yugoslavia and the Republic of Serbia have suggested on several occasions that international observers be placed on their borders with Bosnia and Herzegovina so that the international community could convince itself of that.

The Constitutions of the Federal Republic of Yugoslavia and the Republic of Serbia guarantee, in compliance with international documents, the highest standards in the field of the protection of civil and human rights, including the rights of national minorities. All citizens of the Federal Republic of Yugoslavia, regardless of their national, religious or any other identity, are ensured full equality in the exercise of their rights.

Members of national minorities, like all other citizens of the Republic of Serbia, also enjoy equal protection of life and security of person and property.

In the Republic of Serbia, there have not been cases of violation of human rights of the members of national minorities, nor has there been "ethnic cleansing" as frequently alleged in foreign media. In Kosovo and Metohija, there is organized pressure of the Albanian separatist movement against citizens of Albanian nationality to refrain from exercising their rights (boycott of elections, refusal to participate in the work of legal organs of the Autonomous Province of Kosovo and Metohija, boycott of schools, health protection, etc.) and to refuse to recognize the laws and decisions of state organs of the Republic of Serbia, i.e. to deny that they belong to the Republic of Serbia and the Federal Republic of Yugoslavia.

At the directive of the Albanian separatist movement, in 1990 and 1991, a vast majority of workers of Albanian nationality left the police of the Autonomous Province of Kosovo and Metohija. They lost their jobs because they had left them of their own will and not because of their nationality. The Ministry of Internal Affairs and other state institutions have not discriminated against anyone because of his/her nationality when applying for a job. Unlike in Kosovo and Metohija, where many members of the Albanian minority walked off their jobs (including the managing ones), in the Autonomous Province of Vojvodina the managing posts in the police, for example, are held by about 30 per cent of persons of non-Serb nationality. In the municipalities with mixed national composition of the population this percentage is much higher. The percentage of participation of the total number of employees in the police is proportionate to the national composition of the population. For example, in the Secretariat for Internal Affairs of Novi Pazar, out of the total number of employees, 57.5 per cent are Muslims, 41.9 per cent are Serbs and 0.3 per cent are others.

In order to suppress inter-ethnic conflicts in the areas with mixed population, security measures have been intensified to protect the personal and property security of all citizens as well as to prevent criminal acts and offences, particularly those of an inter-ethnic nature.

The measures undertaken have resulted in an improved security situation in these areas, increased personal and property security of all citizens, and significant results have been achieved in the suppression of black-marketing and illicit trafficking in narcotic drugs, weapons and ammunition. Public peace and order have been maintained and their large-scale disruption has been thwarted.

Most of the serious criminal acts committed against persons of Muslim, Albanian, Croatian and other nationalities have been solved, and their perpetrators have been brought to justice.

Therefore, the assessment contained in the report that the human rights situation in Kosovo and Metohija continues to deteriorate is untrue. The allegation that Kosmet lost its status as an autonomous province in 1990 is particularly malicious. As is known, Kosovo and Metohija still has the status of an autonomous province with all the powers, including territorial and cultural autonomy.

The allegation that nine medical centres in Kosovo and Metohija have been closed is also untrue. No centre has either been or will be closed, but all these centres are being reorganized in order to become more effective.

The report completely twisted the picture of the situation in the field of education in Kosovo and Metohija. Albanian students are guaranteed the right to education in their mother tongue. The problem is caused by a great number of teachers of Albanian nationality who refuse to teach on the basis of curriculum set by the Republic. The report does not contain any critical reference towards this fact, although the Special Rapporteur should know that no national minority in the States participating in the Conference on Security and Cooperation in Europe is entitled to education on the basis of its own, but exclusively of the curriculum of the country it lives in. Therefore, the boycott of teachers of the Albanian nationality is not only irresponsible but also reflects the secessionist aspirations of the Albanian national minority, which is unacceptable under international law.

The report is also uncritical of the fact (which is also referred to) that only 5-10 per cent of ethnic Albanians have voted in the recent elections in Serbia. It is precisely through their mass participation in the elections that ethnic Albanians could legally exercise their minority rights, and international factors, including Mr. Mazowiecki as Special Rapporteur, should encourage them along those lines.

The same assessment applies to the Muslims in the Raška area (so-called Sandžak) where their most influential party (Democratic Action Party) also boycotted the elections. The conclusion of the Special Rapporteur concerning further deterioration of the human rights situation in this area is more tendentious than that in Kosovo and Metohija. For example, the majority of managing posts in enterprises, health, educational and other institutions in Novi Pazar (as the biggest town in the area) are held by Muslims. Moreover, there are no instances of violation of their human rights either formally or in practice, since they, unlike Albanians in Kosmet, have not boycotted the privileges accorded to them.

As regards Vojvodina, the concern of the Special Rapporteur at the inflow of refugees from Croatia and Bosnia and Herzegovina into this area is unfounded. The Republic of Serbia receives all refugees irrespective of their nationality and accommodates them throughout its territory. In this respect, Vojvodina is in no danger of changing its demographic structure, while Hungarians, Croatians and others living there are not losing their property, jobs or influence within the community. Some instances of discriminatory behaviour against members of ethnic minorities have been solved and their perpetrators punished.

The statement in the report that the Serbian language is compulsory for all pupils while Hungarian is not compulsory for Serbian pupils is absurd. There is no State whose citizens (including students and pupils) are obliged to learn the language of a national minority.

It can be concluded in general that the report of Mr. Mazowiecki is the continuation of the tendentious appraisal of tne human rights situation in the Federal Republic of Yugoslavia and in the Republics of Serbia and Montenegro. Its main characteristic is that it uses uncorroborated facts regarding the situation in the area obtained predominantly from representatives of national minorities who have separatist aspirations the majority of which are untrue.